

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

|  |   |                                   |
|--|---|-----------------------------------|
| John D. West, on Behalf Of Himself       | ) |                                   |
| and All Other Persons Similarly Situated | ) | Case No.: C-1-02-0001             |
|  | ) |                                   |
| Plaintiffs                               | ) |                                   |
| v.                                       | ) | District Judge Sandra S. Beckwith |
|  | ) |                                   |
| AK Steel Corporation (formerly ARMCO)    | ) |                                   |
| Retirement Accumulation Pension Plan     | ) | Magistrate Judge Timothy S. Black |
|  | ) |                                   |
| Defendants                               | ) |                                   |

**JOINT MOTION FOR APPROVAL OF NOTICE**

The parties jointly and respectfully move this Court to enter an Order, in the form appended, approving the appended proposed Notice of Class Action, and ordering the distribution of the Notice by first-class United States mail to the class members' addresses as recorded in the records of defendant AK Steel Corporation Retirement Accumulation Pension Plan ("the Plan").

Rule 23(c)(2)(B) provides that "[f]or any class certified under Rule 23(b)(3), the court must direct to class members the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort." The content of the notice is prescribed by Rule 23(c)(2)(B):

The notice must concisely and clearly state in plain, easily understood language:

- the nature of the action,
- the definition of the class certified,
- the class claims, issues, or defenses,
- that a class member may enter an appearance through counsel if the member so desires,
- that the court will exclude from the class any member who requests exclusion, stating when and how members may elect to be excluded, and
- the binding effect of a class judgment on class members under Rule 23(c)(3).

As to the manner of distribution, Rule 23(c)(2) requires that "individual notice" be given "to all members who can be identified through reasonable effort." *Eisen v. Carlisle & Jacqueline*, 417 U.S. 156, 173-177 (1974). To satisfy Rule 23 and due process, the notice to class members "must be the best practicable." *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 812 (1985). For class members whose identities are known, the "best notice practicable" means "individualized notice by mail to the last known address." *Grunin v. International House of Pancakes*, 513 F.2d 114, 121 (8th Cir. 1975).

The proposed Notice in the instant case fully satisfies these requirements. The content of the Notice conforms to Rule 23(c)(2)(B), and the Notice will be mailed to all Class Members at their last known addresses as shown in the Plan's records.

The parties accordingly request that the Court grant this Motion by entering the proposed appended Order.

Respectfully submitted,

s/ Thomas R. Theado  
Trial Attorney  
Thomas R. Theado (0013937)  
GARY, NAEGELE & THEADO, LLC  
446 Broadway Avenue  
Lorain, Ohio 44052-1797  
Ph: 440-244-4809  
Fx: 440-244-3462

Of Counsel:

Robert D. Gary (0019610)  
Jori Bloom Naegele (0019602)  
Thomas A. Downie (0033119)  
GARY, NAEGELE & THEADO, LLC  
446 Broadway Avenue  
Lorain, Ohio 44052-1797  
Ph: 440-244-4809  
Fx: 440-244-3462

Allen C. Engerman  
Law Offices of Allen C. Engerman, P.C.  
666 Dundee Road—# 1200  
Northbrook, Illinois 60062  
Ph: 847-564-5555  
Fx: 847-564-4944

COUNSEL FOR PLAINTIFFS

s/ George E. Yund (0017714)  
Trial Attorney for Defendants  
Frost Brown Todd LLC  
2200 PNC Center  
201 East Fifth Street  
Cincinnati, OH 45202-4182  
(513) 651-6824

Robert D. Wick  
David A. Barker  
Covington & Burling  
1201 Pennsylvania Avenue  
Washington, DC 20004-2401  
(202) 662-6000

ATTORNEYS FOR DEFENDANTS

### **CERTIFICATE OF SERVICE**

I hereby certify that on April 14, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

|                    |                     |
|--------------------|---------------------|
| Thomas A Downie    | tdownie@gntlaw.com  |
| Allen C Engerman   | acelaw@mcn.org      |
| Stuart J Evans     | sevans@cov.com      |
| Robert D Gary      | office@gntlaw.com   |
| Jori Bloom Naegele | jnaegele@gntlaw.com |
| Thomas R Theado    | ttheado@gntlaw.com  |
| Robert D Wick      | rwick@cov.com       |
| George Edward Yund | gyund@fbtlaw.com    |

I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

Christopher M. Denig  
Covington and Burling  
1201 Pennsylvania Avenue, N.W.  
P.O. Box 7566  
Washington, DC 20044

s/ Thomas R. Theado  
Thomas R. Theado (0013937)  
Attorney for Plaintiffs  
Gary, Naegele & Theado LLC  
446 Broadway Avenue  
Lorain, Ohio 44052-1797  
Telephone: (440) 244-4809  
Telecopier: (440) 244-3462  
E-mail: TomTheado@aol.com